

Comments of the NEM on the Public Consultation on Content Online in the Single Market

Introduction

The NEM¹ Technology Platform is a grouping of about 350 companies working in Networked Electronic Media. This field includes broadcasting and broadband Internet. The Platform has the objective of sharing visions and collaborating on the future of the media industry. The NEM Technology Platform aims to foster the development and introduction of novel audiovisual

¹ The NEM Technology Platform envisions a future based on an innovative mix of media forms, delivered seamlessly over technologically transparent networks, to improve the quality, enjoyment and value of life. NEM represents the convergence of existing and new technologies, including broadband, mobile and new media across all Information Communication Technology (ICT) sectors, to create a new era of advanced personalised services.

NEM is an industry-led initiative to promote and direct the large-scale initiatives needed to accelerate the pace of innovation and the rate of technology evolution, to position the European Industry at the forefront of global technology markets, and give users an abundance of value-added services and applications to choose from for achieving optimal benefits for all. All these efforts take into account the evolution from home and office environments towards broadband extended home and office environments.

NEM is the forum for industry and academia:

- ✚ to share visions for future research and development
- ✚ to develop a common strategic research agenda.

The NEM domain addresses all aspects of the media services lifecycle from content creation (by professionals and increasingly by individual citizens) to the delivery and utilization of innovative networked and electronic media services and applications.

The NEM domain provides compelling opportunities for economic growth and the well-being of European citizens. As the total ICT market currently represents about 8% of European GDP, the commercial potential of the NEM sector is a key contributor to the economic development of Europe. The NEM sector contributes to crucial developments and improvements that benefit society at large: technological developments offer new services to enrich culture, education, health services and assisted living. The European media and related industries are significant economic players in their respective arenas. Over the next 15 years the converged NEM domain has the potential to become the largest economic influencer in Europe.

and multimedia broadband services and applications to benefit European citizens and enterprises.

Questions

Types of creative content and services online

1. Do you offer creative content or services also online? If so, what kind of content or services? Are these content and services substantially different from creative content and services you offer offline (length, format, etc.)?

NEM members include organisations working in the production of content, which is offered online and offline. There are overlaps between the kinds of content offered on line and off line, but there can also be substantial differences. Off-line content is normally offered via packaged media. The centre of gravity of packaged media is usually 'premium content'. Packaged media generally use little interactivity. On-line content is currently contents tailored to interactive use

2. Are there other types of content which you feel should be included in the scope of the future Communication? Please indicate the different types of content/services you propose to include.

Over time it will be progressively more difficult to distinguish between on-line and off-line products. The products themselves will converge and the difference in the degree of influence of different delivery platforms will narrow.

Consumption, creation and diversity of online content

3. Do you think the present environment (legal, technical, business, etc.) is conducive to developing trust in and take-up of new creative content services online? If not, what are your concerns: Insufficient reliability / security of the network? Insufficient speed of the networks? Fears for your privacy? Fears of a violation of protected content? Unreliable payment systems? Complicated price systems? Lack of interoperability between devices? Insufficient harmonisation in the Single Market? Etc.

As NEM represents a wide range of sensitivities and players in different stages of the value chain, including users, it is difficult to pin point specific issues regarding the subjective/objective reasons which may impede a fast take off of the online content offering.

However, NEM considers that there is a general need in Europe to enhance the current portfolio of services and their environment in order to better satisfy customer experiences and their

expectations. Better networks (reliability, broadband, quality of experience, etc.), better services addressing personalized customer needs, better experience of the users in order to avoid operational or interoperability problems, have to be found, and these issues are already part of the NEM strategic research agenda in order to make European technology better match the business and user scenarios.

4. Do you think that adequate protection of public interests (privacy, access to information, etc) is ensured in the online environment? How are user rights taken into account in the country you live / operate in?
5. How important for you is the possibility to access and use all online content on several, different devices? What are the advantages and / or risks of such interoperability between content and devices in the online environment? What is your opinion on the current legal framework in that respect?
6. How far is cultural diversity self-sustaining online? Or should cultural diversity specifically be further fostered online? How can more people be enabled to share and circulate their own creative works? Is enough done to respect and enhance linguistic diversity?

Competitiveness of European online content industry

7. If you compare the online content industry in Europe with the same industry in other regions of the world, what in your opinion are the strengths and weaknesses of our industry in terms of competitiveness? Please give examples.

New business models and transition of traditional ones into the digital world

8. Where do you see opportunities for new online content creation and distribution in the area of your activity, within your country/ies (This could include streaming, PPV, subscription, VOD, P2P, special offers for groups or communities for instance schools, digital libraries, online communities) and the delivery platforms used. Do you intend to offer these new services only at national level, or in whole Europe or beyond? If not, which are the obstacles?
9. Please supply medium term forecasts on the evolution of demand for online content in your field of activity, if available.
10. Are there any technological barriers (e.g. download and upload capacity, availability of software and other technological conditions such as interoperability, equipment, skills, other) to a more efficient online content creation and distribution? If so, please identify them.

11. What kind of difficulties do you encounter in securing revenue streams? What should in your view be the role of the different players to secure a sustainable revenue chain for creation and distribution online?

Payment and price systems

12. What kinds of payment systems are used in your field of activity and in the country or countries you operate in? How could payment systems be improved?
13. What kinds of pricing systems or strategies are used in your field of activity? How could these be improved?

Licensing, rights clearance, right holders remuneration

14. Would creative businesses benefit from Europe-wide or multi-territory licensing and clearance? If so, what would be the appropriate way to deal with this? What economic and legal challenges do you identify in that respect?

The regulatory environment is certainly crucial to ensure economies of scale from a European single market. It is needed to avoid fragmentation due to different requirements in each country. A single European approach, based on a country of origin principle, for any content on-line service should be pursued.

15. Are there any problems concerning licensing and / or effective rights clearance in the sector and in the country or countries you operate in? How could these problems be solved?
16. How should the distribution of creative content online be taken into account in the remuneration of the right holders? What should be the consequences of convergence in terms of right holders' remuneration (levy systems, new forms of compensation for authorised / unauthorised private copy, etc.)?

Legal or regulatory barriers

17. Are there any legal or regulatory barriers which hamper the development of creative online content and services, for example fiscal measures, the intellectual property regime, or other controls?
Network Operators are of the opinion that innovative emerging services should not be subject to regulatory barriers.
18. How does the country you mainly operate in encourage the development of creative online content and services?

Release windows

19. Are “release windows” applicable to your business model? If so, how do you assess the functioning of the system? Do you have proposals to improve it where necessary? Do you think release windows still make sense in the online environment? Would other models be appropriate?

Networks

20. The Internet is currently based on the principle of “network neutrality”, with all data moving around the system treated equally. One of the ideas being floated is that network operators should be allowed to offer preferential, high-quality services to some service providers instead of providing a neutral service. What is your position on this issue?

Network operators should have the possibility to offer preferential, high-quality services to some service providers if they so wish, following the normal principles of business. It is up to network operators, as well as to all the other parties offering services and content on possible different media, to decide their business patterns.

Piracy and unauthorised uploading and downloading of copyright protected works

21. To what extent does your business model suffer from piracy (physical and/or online)? What kinds of action to curb piracy are taken in your sector/field of activity and in the country or countries you operate in? Do you consider unauthorised uploading and downloading to be equally damaging? Should a distinction be made as regards the fight against pirates between “small” and “big” ones?
22. To what extent do education and awareness-raising campaigns concerning respect for copyright contribute to limiting piracy in the country or countries you operate in? Do you have specific proposals in this respect?
23. Could peer-to-peer technologies be used in such a way that the owners of copyrighted material are adequately protected in your field of activity and in the country or countries you operate in? Does peer-to-peer file sharing (also of uncopyrighted material) reveal new business models? If so, please describe them?

Rating or classification

24. Is rating or classification of content an issue for your business? Do the different national practices concerning classification cause any problem for the free movement of creative services? How is classification ensured in your business (self-regulation, co-regulation)?

Digital Rights Management systems (DRMs)

Digital Rights Management systems (DRMs) involve technologies that identify and describe digital content protected by intellectual property rights. While DRMs are essentially technologies which provide for the management of rights and payments, they also help to prevent unauthorised use.

25. Do you use Digital Rights Management systems (DRMs) or intend to do so? If you do not use any, why not? Do you consider DRMs an appropriate means to manage and secure the distribution of copyrighted material in the online environment?

NEM members do use DRM systems to provide services. DRMs are appropriate means to secure content. Interoperability of different DRM systems may be a serious obstacle to an open market in the future.

26. Do you have access to robust DRM systems providing what you consider to be an appropriate level of protection? If not, what is the reason for that? What are the consequences for you of not having access to a robust DRM system?

DRM systems as traditional conditional access systems are secure to an extent. Obviously, DRM systems for trading would never be in a similar security position to military systems. However, the comparison and assessment of DRM systems from the security point of view have to be made bearing in mind performance/price. There would be a wide range of content offerings to different users and customer bases, and the DRM requirements may be different. The critical challenge should not be a single super-robust system capable of managing all and any kind of DRM based services. The challenge is the interoperability and hand over of DRM based services through different DRM technologies. Any standardized unique DRM system would be an invitation to hackers to pirate the system. The combination of different systems in an interoperable scenario may be the best scenario.

27. In the sector and in the country or countries you operate in, are DRMs widely used? Are these systems sufficiently transparent to creators and consumers? Are the systems used user-friendly?

A variety of systems operate and many of them claim to be full DRM systems, although in practice they cover partial solutions to the overall problem of transferring content, ensuring the rights of the transfer for the content provider and the content user.

28. Do you use copy protection measures? To what extent is such copy protection accepted by others in the sector and in the country or countries you operate in?

29. Are there any other issues concerning DRMs you would like to raise, such as governance, trust models and compliance,

interoperability? **Interoperability is certainly the main issue and the challenge is to ensure DRM based services can be provided in the whole of Europe without unnecessary constraints. Research on interoperable DRMs is currently on high priority in the Strategic Agenda of the NEM technology platform.**

Complementing commercial offers with non-commercial services

30. In which way can non-commercial services, such as opening archives online (public/private partnerships) complement commercial offers to consumers in the sector you operate in?

What role for equipment and software manufacturers?

31. How could European equipment and software manufacturers take full advantage of the creation and distribution of creative content and services online (devices, DRMs, etc.)?

What role for public authorities?

32. What could be the role of national governments / regional entities to foster new business models in the online environment (broadband deployment, inclusion, etc.)? **Any new DRM based service should provide solutions and mechanisms under which it can interact with other DRM based systems towards facilitating interoperability.**

33. What actions (policy, support measures, research projects) could be taken at EU level to address the specific issues you raised? Do you have concrete proposals in this respect?